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11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 CONSUMER FINANCIAL  
14 PROTECTION BUREAU,

15 Plaintiff,

16 v.

17 EXPERIAN INFORMATION  
18 SOLUTIONS, INC.,

19 Defendant.  
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Case No. 8:25-cv-00024-MWC-DFM

**MEMORANDUM OF LAW IN  
SUPPORT OF EXPERIAN  
INFORMATION SOLUTIONS,  
INC.'S MOTION TO DISMISS  
THE COMPLAINT**

Date: May 9, 2025

Time: 1:30 p.m.

Place: Courtroom 6A

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## **INTRODUCTION**

This action arose after a multi-year investigation by the Consumer Financial Protection Bureau (the “Bureau”) into Experian Information Solutions, Inc.’s (“EIS”) compliance with its obligations under the Fair Credit Reporting Act (“FCRA”). After more than three years, the Bureau’s investigation turned up nothing more than a narrow set of discrete issues that were largely caused by the COVID-19 pandemic. These issues were not only self-identified and remediated by EIS, but the Bureau made a commitment not to “bring an enforcement action against a consumer reporting agency . . . making good faith efforts to investigate disputes as quickly as possible” during the pandemic.<sup>1</sup>

Despite its commitment, the Bureau initiated this action, alleging a host of COVID-era issues affecting a fraction of the tens of millions of disputes EIS received during the pandemic. Taking it a step further, the Bureau asserted a series of generalized grievances under the FCRA and the Consumer Financial Protection Act (“CFPA”), relating to well-established practices that the Bureau has never taken issue with while exercising its supervisory authority over EIS for the past decade. The Bureau’s claims are both procedurally and substantively defective and must therefore be dismissed.

To start, the Bureau’s claims are time-barred. Under the CFPA, the Bureau must initiate an action within three years of discovering a violation. 12 U.S.C. § 5564(g)(1). According to the Bureau, the conduct undergirding the COVID-era issues occurred, at the latest, in October 2021—more than three years before the Bureau initiated this action. And, because EIS has been under the Bureau’s constant supervision, the Bureau necessarily discovered these violations at or near the time they allegedly occurred. Indeed, EIS self-reported the vast majority of these issues

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<sup>1</sup> Request for Judicial Notice (“RJN”), Ex. 4 at 82.

1 during supervision. As such, the Bureau’s COVID-era violations—which arose more  
2 than three years before the filing of this action—are time-barred.

3 The same holds true for the Bureau’s generalized grievances, which seek to  
4 impose novel requirements under the FCRA. These claims all concern well-  
5 established industry practices that the Bureau has known about for years. Indeed, the  
6 Bureau has thoroughly and continuously examined every aspect of EIS’s dispute  
7 handling systems and processes over the course of multiple exams, even approving  
8 some of the very same issues of which it now complains. And neither the FCRA nor  
9 EIS’s policies have materially changed during that time. The Bureau is therefore  
10 foreclosed from pursuing these claims.

11 Even if the Bureau’s claims were timely (they are not), the Bureau still fails to  
12 state a claim. The Bureau alleges a hodgepodge of violations, claiming that EIS failed  
13 to maintain reasonable procedures and reasonably reinvestigate consumer disputes in  
14 violation of Sections 1681e(b) and 1681i of the FCRA. To make a *prima facie* case  
15 for either violation, the Bureau must establish the “threshold requirement” of “an  
16 inaccuracy.” *Chuluunbat v. Experian Info. Sols., Inc.*, 4 F.4th 562, 567 (7th Cir.  
17 2021); *Shaw v. Experian Info. Sols., Inc.*, 891 F.3d 749, 759 (9th Cir. 2018) (holding  
18 that an inaccuracy is the plaintiff’s “threshold burden” and the court “need not  
19 consider whether Experian had reasonable procedures or conducted reasonable  
20 reinvestigations” if the burden is not satisfied). This requires a showing that the  
21 information at issue is either “‘patently incorrect’ or is ‘misleading in such a way and  
22 to such an extent that it can be expected to adversely affect credit decisions.’” *Shaw*,  
23 891 F.3d at 756 (quoting *Gorman v. Wolpoff & Abramson, LLP*, 584 F.3d 1147, 1163  
24 (9th Cir. 2009)). Without such showing, courts across the country uniformly agree:  
25 no inaccuracy, no claim.

26 Yet, despite an unbroken wall of precedent, the Bureau does not allege that  
27 EIS reported an inaccuracy for any of the alleged violations of its accuracy or dispute  
28 handling processes. That omission is fatal. Although the Bureau generally alleges

1 perceived deficiencies in EIS’s processes—such as missing deadlines, over relying  
2 on the Automated Credit Dispute Verification (“ACDV”) process, failing to  
3 reinvestigate hard inquiries, not considering all relevant information, or improperly  
4 communicating dispute results—absent an inaccuracy, the Court “need not consider  
5 whether Experian had reasonable procedures or conducted reasonable  
6 reinvestigations.” *Id.* at 759. As such, the Bureau’s generalized allegations about  
7 EIS’s processes—which is all that has been alleged here—do not cut it.

8       Unable to establish an FCRA violation, the Bureau resorts to claiming that  
9 certain practices are “unfair” under the CFPA, including EIS’s supposed failure to  
10 convey all relevant information to furnishers, its purported overreliance on the  
11 ACDV process, and its alleged failure to prevent subsequent furnishers from  
12 reporting previously deleted tradelines. But these practices are not “unfair;” nor do  
13 they contravene “a well-established legal standard, whether grounded in statute, the  
14 common law, or the Constitution.” *LabMD, Inc. v. Fed. Trade Comm’n*, 894 F.3d  
15 1221, 1229 n.24 (11th Cir. 2018). Rather, the Bureau’s allegations amount to nothing  
16 more than speculation that EIS’s procedures may have caused harm, which is not  
17 enough to state an unfairness claim. *See Fed. Trade Comm’n v. D-Link Sys., Inc.*, No.  
18 17-cv-00039, 2017 WL 4150873, at \*5 (N.D. Cal. Sept. 19, 2017) (recognizing that  
19 “a mere possibility of injury” is not sufficient to establish an unfairness claim). Nor  
20 do the Bureau’s allegations demonstrate that EIS had “fair notice” that its processes  
21 were “forbidden.” *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012).  
22 As such, the Bureau’s unfairness claims cannot stand.

23       At bottom, the Bureau’s complaint should be seen for what it is: an attempt to  
24 legislate through enforcement. But the Bureau’s claims are defective and fail to meet  
25 basic pleading requirements. Accordingly, they must be dismissed.



**BACKGROUND**

EIS “is one of the largest consumer reporting agencies (‘CRAs’) in the country.” ECF No. 1 (“Cmplt.”), ¶ 2. A primary aspect of EIS’s business is “collecting and organizing data on most adult Americans to generate consumer reports, consumer file disclosures, and credit scores that reflect consumers’ credit activity and history.” *Id.* “Information reflected in consumer reports is provided to CRAs by data furnishers, such as banks, credit card companies, or debt collectors, and other sources.” *Id.*, ¶ 4.

“The FCRA demands that CRAs use reasonable procedures to assure maximum possible accuracy of information contained in consumer reports, 15 U.S.C. § 1681e(b), and provides a mechanism for consumers to dispute any incomplete or inaccurate information in their report. 15 U.S.C. § 1681i.” *Id.*, ¶ 6. “When a consumer disputes the accuracy or completeness of information in their consumer report,” the FCRA requires EIS “to conduct a ‘reasonable reinvestigation’ of the disputed information and report the results of the reinvestigation to the consumer, all within certain timelines.” *Id.*, ¶ 7. At the conclusion of the reinvestigation, EIS “must modify or delete any item of information found to be inaccurate or incomplete, or that it could not verify.” *Id.* “For any information deleted as a result of a dispute, the FCRA imposes specific obligations on [EIS] that must be satisfied before that information may be reinserted into a consumer’s file.” *Id.*

To ensure EIS’s compliance with its statutory obligations, the Bureau exercises regular supervisory exams of EIS’s policies and procedures. Since 2012, the Bureau has thoroughly and continuously examined every aspect of EIS’s dispute handling systems and processes. *See generally* RJN Exs. 1–9. Over the past decade, the supervisory process has provided a meaningful opportunity for EIS and the Bureau to work collaboratively to address areas where EIS could update or improve its dispute handling practices. And, at nearly every turn, EIS has considered the Bureau’s feedback and adopted the Bureau’s recommendations. Indeed, in response

1 to various supervisory exams over the years, CRAs, like EIS, “have significantly  
2 enhanced their dispute handling systems in response to CFPB directives.” RJN Ex. 2  
3 at 39; *see also* RJN Ex. 3. In fact, for more than a decade, the Bureau never initiated  
4 an enforcement action against EIS for violating its dispute handling obligations under  
5 the FCRA. That process of cooperation unexpectedly changed in 2021, when the  
6 Bureau initiated a sweeping investigation into every aspect of EIS’s dispute handling  
7 procedures.

8 After more than three years of intense investigation, the Bureau (unexpectedly)  
9 filed this action on January 7, 2025. Without identifying any systemic issues with  
10 EIS’s processes, the Bureau’s complaint seeks to overhaul EIS’s dispute handling  
11 processes, including, among other things, the manner in which consumers submit  
12 online disputes, the obligation to reinvestigate hard inquiry disputes, the ACDV  
13 system as a whole, the role of CRAs to act as tribunals, and the format of dispute  
14 results sent to consumers after the completion of a reinvestigation. The Bureau’s  
15 claims generally fall into three categories: (1) COVID-era violations; (2) generalized  
16 grievances; and (3) unfair practices.

17 The COVID-era violations concern discrete violations of EIS’s obligations  
18 that predominantly occurred during the pandemic, between January 2018 and  
19 October 2021. Specifically, the Bureau alleges that EIS (1) “failed to forward more  
20 than 2 million disputes to furnishers within five business days, as required by the  
21 FCRA,” (2) “deleted more than 100,000 disputed tradelines instead of initiating and  
22 completing a reinvestigation within 30 days,” and (3) “inaccurately reflected joint  
23 user status” for “more than 1,700 consumer files” that had been disputed. *Cmplt.*,  
24 ¶¶ 83–84, 101, 103.

25 The generalized grievances concern alleged violations of EIS’s accuracy and  
26 dispute obligations under the FCRA. None of these violations, however, address a  
27 single consumer file that includes inaccurate information. Instead, the Bureau alleges  
28 that EIS procedures generally run afoul of long-standing industry practices, including

1 EIS's (1) reinvestigation of hard inquiry disputes, (2) consideration of all relevant  
2 information from consumers, (3) reliance on furnishers' ACDV responses,  
3 (4) descriptions of dispute results sent to consumers after the completion of a  
4 reinvestigation, and (5) reporting of previously deleted tradelines from different  
5 furnishers. *Id.*, ¶¶ 62–63, 68, 75, 84–85.

6 The unfair practices duplicate certain generalized grievances, including EIS's  
7 supposed "faulty dispute intake procedures and failure to provide furnishers with  
8 consumer-submitted documentation, uncritical deference to furnishers' response to  
9 the disputed information, and failure to inform consumers of the results of  
10 reinvestigations." *Id.*, ¶ 13. While the Bureau alleges that EIS's "conduct is likely to  
11 cause substantial injury" or inaccurate reporting, the Bureau does not allege that  
12 EIS's practices actually injured anyone, only that they may have injured someone.  
13 *Id.*, ¶¶ 153, 159, 165. Moreover, both the Bureau's generalized grievances and unfair  
14 practices claims concern EIS policies and procedures that have been subject to the  
15 Bureau's supervision for more than a decade. RJN Exs. 1–2.

### 16 **LEGAL STANDARD**

17 Under Rule 12(b)(6), a complaint must be dismissed when a plaintiff fails to  
18 allege facts which, if true, would entitle the complainant to relief. *Ashcroft v. Iqbal*,  
19 556 U.S. 662, 679 (2009); *accord Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 546  
20 (2007). The pleadings must provide "more than labels and conclusions, and a  
21 formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550  
22 U.S. at 555. Dismissal without leave to amend is appropriate if the Court is satisfied  
23 that the deficiencies in the complaint could not be cured by amendment. *Jackson v.*  
24 *Carey*, 353 F.3d 750, 758 (9th Cir. 2003).

### 25 **ARGUMENT**

26 The Bureau fails to state a claim under either the FCRA or the CFPA. The  
27 Bureau's claims involve discrete issues that arose during the COVID-19 pandemic  
28 or otherwise concern well-known and long-standing practices. Not only are these

1 claims time-barred, they fail as a matter of law. Accordingly, the Bureau’s complaint  
2 should be dismissed in its entirety.

3 **I. The Claims Are Time-Barred**

4 At the threshold, the Bureau’s claims are untimely. The Supreme Court has  
5 “[e]mphasiz[ed] the importance of time limits” for government enforcement actions  
6 seeking civil penalties, recognizing that “it ‘would be utterly repugnant to the genius  
7 of our laws’ if actions for penalties could ‘be brought at any distance of time.’”  
8 *Gabelli v. S.E.C.*, 568 U.S. 442, 452 (2013) (quoting *Adams v. Woods*, 6 U.S. 336,  
9 342 (1805)). Under the CFPA, the Bureau has three years from the “date of  
10 discovery” to bring an action—*i.e.*, when it knew or should have known of the alleged  
11 violations. 12 U.S.C. § 5564(g)(1); *see also Aloe Vera of Am., Inc. v. U.S.*, 699 F.3d  
12 1153, 1159 (9th Cir. 2012) (interpreting the “date of discovery” language in a federal  
13 statute of limitations to mean that the “statute of limitations begins to run . . . when a  
14 plaintiff knows or reasonably should know of” the alleged violation); *U.S. ex rel.*  
15 *Miller v. Bill Harbert Int’l Const.*, 505 F. Supp. 2d 1, 7–8 (D.D.C. 2007) (even where  
16 the statute of limitations is tolled due to fraud, the time begins when the government,  
17 on inquiry notice, knew or should have known the basis of the lawsuit). Yet, the  
18 Bureau’s claims here concern either discrete issues that arose before October 2021,  
19 or long-standing practices that the Bureau has supervised and examined for more than  
20 a decade.

21 Starting with the COVID-era claims, the Bureau has been on notice of these  
22 discrete issues since at least October 2021, when they began investigating EIS’s  
23 dispute handling practices. By the Bureau’s own admission, some of these violations  
24 even date back to January 2018. During that time, the Bureau regularly engaged with  
25 EIS in supervision, where it continuously and thoroughly examined EIS’s dispute  
26 handling and accuracy procedures. *See* RJN Exs. 4–7. Indeed, the Bureau publishes  
27 annual supervisory reports on credit reporting practices of CRAs and furnishers. *See*  
28 RJN Exs. 1–3, 6–7. Thus, there can be no dispute that the Bureau knew (or should

1 have known) about these violations more than three years before filing this actions.  
2 As such, the COVID-era claims are time-barred.

3 The same holds true for the Bureau's generalized grievances and unfair  
4 practices. There can be no dispute that the Bureau has known (or should have known)  
5 about EIS's ACDV policy, hard inquiry policy, deletion policy, and reinsertion  
6 policy for ten-plus years. Yet, despite subjecting EIS to regular exams during that  
7 time, the Bureau has never taken issue with EIS's reliance on the ACDV process.  
8 And it has never been an industry practice or a legal requirement to reinvestigate hard  
9 inquiries. Nor have reinsertions ever been defined to include the reporting of an  
10 account from a different furnisher; to the contrary, a reinsertion concerns the re-  
11 reporting of a deleted account by the same furnisher. *See* 15 U.S.C. § 1681i(a)(5)(B).  
12 Similarly, the Bureau has known about the format of dispute results since 2015, after  
13 the Bureau raised issues about how information should be conveyed to consumers.  
14 RJN Ex. 2 at 39; *see also* Ex. 3 at 65.

15 Simply put, the Bureau's claims all concern practices and issues that the  
16 Bureau knew about more than three years before filing this suit. Accordingly, its  
17 claims are foreclosed by the statute of limitations.

## 18 **II. The Bureau Fails To Plead An Inaccuracy**

19 Even if the Bureau's claims were timely, they would still be subject to  
20 dismissal. A claim under Sections 1681e(b) or 1681i requires the plaintiff to satisfy  
21 the "threshold burden" of demonstrating an inaccuracy. *Shaw*, 891 F.3d at 759; *see*  
22 *also id.* at 756 ("[A]lthough § 1681i 'does not on its face require that an actual  
23 inaccuracy exist,' we, as with § 1681e claims, 'have imposed such a requirement.'" (quoting *Carvalho v. Equifax Info. Servs., LLC*, 629 F.3d 876, 890 (9th Cir. 2010));  
24 *Chuluunbat*, 4 F.4th at 567 (holding that an inaccuracy is a "threshold requirement"  
25 for claims under Section 1681i and Section 1681e(b)). To meet that burden, a  
26 plaintiff must allege that the information at issue is either "'patently incorrect' or is  
27 'misleading in such a way and to such an extent that it can be expected to adversely  
28

1 affect credit decisions.” *Shaw*, 891 F.3d at 756 (quoting *Gorman*, 584 F.3d 1163).  
2 Without such allegations, the Court “need not consider whether Experian had  
3 reasonable procedures or conducted reasonable reinvestigations.” *Id.* at 759; *see also*  
4 *Darden v. Experian Info. Sols., Inc.*, No. 22-cv-00896, 2024 WL 489442, at \*12  
5 (N.D. Ga. Jan. 4, 2024) (“[T]he threshold question is whether the challenged credit  
6 information is accurate; if the information is accurate, no further inquiry into the  
7 reasonableness of [the CRA’s] procedures is necessary.” (citations omitted)).

8 Although the Bureau asserts nine causes of action under the FCRA, it fails to  
9 identify a single inaccuracy caused by EIS’s purported violations. The closest the  
10 Bureau comes is alleging that a system glitch during the peak of COVID (June 2020-  
11 December 2020) caused 1,700 consumers to reflect a joint user status on their  
12 accounts. *See* Cmplt., ¶ 103. But even then, the Bureau does not explain how such  
13 reporting was “misleading in such a way and to such an extent that it can be expected  
14 to adversely affect credit decisions.” *Shaw*, 891 F.3d at 756 (quoting *Gorman*, 584  
15 F.3d at 1163). The Bureau’s remaining claims are even further afield, as the Bureau  
16 does not even attempt to plead an inaccuracy. Instead, the Bureau simply asserts  
17 purely technical violations or generalized grievances about the reasonableness of  
18 EIS’s procedures. *See* Cmplt., ¶¶ 104–172. But, absent an inaccuracy, the Bureau has  
19 no claim.

20 Accordingly, because the Bureau fails to meet its “threshold burden” of  
21 establishing an inaccuracy, its FCRA claims must be dismissed.

### 22 **III. The Bureau’s Unfairness Claims Fail**

23 Unable to establish an FCRA violation, the Bureau retreats to claiming that  
24 certain practices outlined above are “unfair” under the CFPA, including EIS’s  
25 purported failure to provide furnishers with all relevant information in online  
26 disputes, its overreliance on the ACDV process, and its inability to prevent  
27 subsequent furnishers from reporting previously deleted tradelines. None of these  
28 practices is “unfair,” let alone contravenes “a well-established legal standard,



1 whether grounded in statute, the common law, or the Constitution.” *LabMD*, 894 F.3d  
2 at 1229 n.24.

3 **A. EIS’s Practices Are Not Unfair**

4 A practice is “unfair” if it (1) “causes or is likely to cause substantial injury to  
5 consumers,” (2) “is not reasonably avoidable by consumers,” and (3) “is not  
6 outweighed by countervailing benefits to consumers or to competition.” 12 U.S.C. §  
7 5531(c)(1); *see also Fed. Trade Comm’n v. Neovi, Inc.*, 604 F.3d 1150, 1155 (9th  
8 Cir. 2010); *D-Link Sys., Inc.*, 2017 WL 4150873, at \*5. The Bureau not only fails to  
9 show a substantial injury, it fails to establish any injury at all. Instead, the Bureau  
10 simply speculates, without any empirical support, that EIS’s procedures increased  
11 the likelihood of inaccurate reporting.

12 In other words, the Bureau does not claim that EIS’s practices actually injured  
13 anyone, only that they may have injured someone. But “a mere possibility of injury”  
14 is not sufficient. *D-Link Sys., Inc.*, 2017 WL 4150873, at \*5; *Fed. Trade Comm’n v.*  
15 *Kochava Inc.*, 671 F. Supp. 3d 1161, 1172–73 (D. Idaho 2023) (granting motion to  
16 dismiss unfair practices claim because “[t]he FTC must go one step further and allege  
17 that Kochava’s practices create a ‘significant risk’ that third parties will identify and  
18 harm consumers”). Nor are general assertions that “numerous” or “many” consumers  
19 will be affected by an unfair practice. *Fed. Trade Comm’n v. LendingClub Corp.*,  
20 No. 18-cv-02454, 2018 WL 11436309, at \*13 (N.D. Cal. Oct. 3, 2018). Indeed, courts  
21 routinely dismiss such claims where, as here, they are based on wholly conclusory  
22 allegations about potential injury. *See In re Google Location Hist. Litig.*, 428 F. Supp.  
23 3d 185, 199 (N.D. Cal. 2019) (finding allegations were “entirely speculative” about  
24 Google’s tracking capabilities); *Fed. Trade Comm’n v. Wellness Support Network,*  
25 *Inc.*, No. 10-cv-04879, 2011 WL 1303419, at \*11 (N.D. Cal. Apr. 4, 2011) (finding  
26 that FTC’s allegations were “so conclusory that they [did] not support a plausible  
27 inference that [defendant] participated directly in the alleged deceptive acts”); *Fed.*  
28 *Trade Comm’n v. Swish Mktg.*, No. 09-cv-03814, 2010 WL 653486, at \*5 (N.D. Cal.

1 Feb. 22, 2010) (dismissing claims where FTC made conclusory allegations  
2 “untethered to virtually any supporting facts”); *S.E.C. v. Kara*, No. 09-cv-01880,  
3 2009 WL 3400662, at \*2 (N.D. Cal. Oct. 20, 2009) (“[M]ere conclusions couched as  
4 factual allegations are not sufficient to state a cause of action.”).

5 Moreover, “[t]he lack of facts indicating a likelihood of harm is all the more  
6 striking in that the [CFPB] . . . undertook a thorough [and unprecedented]  
7 investigation before” asserting claims. *D-Link Sys., Inc.*, 2017 WL 4150873, at \*5.  
8 Indeed, despite engaging in a sprawling investigation lasting more than three years,  
9 the Bureau cannot show that EIS’s practices caused substantial injury to anyone; it  
10 cannot show that furnishers were unable to accurately resolve disputes based on EIS’s  
11 transmission of dispute codes; it cannot show that EIS’s reliance on the ACDV  
12 process led to inaccurate reporting; and it cannot show that a single account reported  
13 by a subsequent furnisher was inaccurate. As such, the Bureau offers nothing more  
14 than conjecture about hypothetical risk of harm to consumers. This is not enough to  
15 establish an unfair practice.

16 **B. The Bureau Did Not Provide Fair Notice**

17 Not only does the Bureau fail to establish injury, it also cannot show that EIS  
18 had fair notice that its practices were unfair. “A fundamental principle in our legal  
19 system is that laws which regulate persons or entities must give fair notice of conduct  
20 that is forbidden or required.” *Fox Television Stations, Inc.*, 567 U.S. at 253; *see also*  
21 *County of Suffolk v. First Am. Real Estate Sols.*, 261 F.3d 179, 195 (2d Cir. 2001)  
22 (“Due process requires that before a . . . significant civil or administrative penalty  
23 attaches, an individual must have fair warning of the conduct prohibited by the statute  
24 or the regulation that makes such a sanction possible.”). This principle applies with  
25 particular force here, where the Bureau’s policy fails to provide “fair notice” that the  
26 conduct at issue will be treated as “a violation of [the statute] as interpreted and  
27 enforced by the agency.” *Fox Television Stations, Inc.*, 567 U.S. at 254. Although the  
28 Bureau has consistently supervised EIS for more than ten years, it has never taken



1 issue with EIS's reliance on the ACDV process. In fact, just two years ago, the  
2 Bureau praised EIS's use of "automated protocols" for "reduc[ing] the cost and time  
3 to transmit relevant [dispute] information." RJN Ex. 9 at 225. And EIS has taken the  
4 Bureau's guidance "quite seriously" and crafted its policies accordingly. *CFPB v. D*  
5 *& D Mktg.*, No. 15-cv-09692, 2016 WL 8849698, at \*7 (C.D. Cal. Nov. 17, 2016).

6 The Bureau cannot now suddenly shift course and deem a practice unfair  
7 simply because it says so. This is particularly true because "district courts across the  
8 country have held that the ACDV process is an adequate and reasonable method of  
9 reinvestigation by consumer reporting agencies," *Pulley v. Sterling Bancorp*, No. 20-  
10 cv-06109, 2023 WL 2692386, at \*8 (E.D. Pa. Mar. 28, 2023), particularly in light of  
11 "the staggering amount of credit that fuels our economy and the enormous burden  
12 (and hence cost) that a general requirement of more detailed follow-up procedures  
13 would impose on the system," *Lee v. Experian Info. Sols.*, No. 02-cv-08424, 2003  
14 WL 22287351, at \*6 (N.D. Ill. Oct. 2, 2003). Circuit courts, including in the Ninth  
15 Circuit, have reach similar conclusions. *See Ghazaryan v. Equifax Info. Servs., LLC*,  
16 740 F. App'x 157, 158 (9th Cir. 2018) (finding that "Equifax's investigation was  
17 reasonable as a matter of law" because it "had determined Discover to be a reliable  
18 source, and . . . [thus] Equifax was entitled to rely on Discover's confirmation that  
19 [plaintiff] had missed a payment notwithstanding that this information ultimately  
20 proved to be inaccurate"); *Bagby v. Experian Info. Sols., Inc.*, 162 F. App'x 600, 606  
21 (7th Cir. 2006) (affirming summary judgment for CRA and reasoning that an ACDV  
22 reinvestigation was reasonable and "a more in-depth investigation by Experian" was  
23 not warranted "[g]iven [plaintiff's] failure to present evidence that [the data  
24 furnishers] were unreliable sources"); *Barron v. Equifax Info. Servs., L.L.C.*, 802 F.  
25 App'x 161, 162–63 (5th Cir. 2020) (affirming that "a [CRA's] reliance on the ACDV  
26 system is generally acceptable" and that there was no reason to find a "need to go  
27 beyond the ACDV system as to this dispute"). Indeed, "credit reporting agencies are  
28 not tribunals. They simply collect and report information furnished by others."

1 *Carvalho*, 629 F.3d at 891. Accordingly, EIS could not possibly have had fair notice  
2 that its reliance on the ACDV process was an unfair practice.

3 The same holds true for the Bureau's other alleged unfair practice claims. As  
4 with EIS's reliance on the ACDV process, the Bureau has never taken issue with  
5 reporting previously deleted accounts from a subsequent furnisher. Nor has any court  
6 mandated that EIS must implement procedures to detect such accounts. And nothing  
7 under the FCRA addresses this issue. To the contrary, the FCRA requires only that  
8 CRAs implement procedures regarding the reinsertion of deleted accounts by the  
9 *same furnisher*. See 15 U.S.C. § 1681i(a)(5)(B).

10 There is likewise no statutory, regulatory, or legal authority requiring EIS to  
11 code disputes in a certain way. Nor is there any requirement that EIS present  
12 consumers with the ability to code their disputes in the same granular way in which  
13 dispute agents do. In fact, EIS is not even required to host the Online Dispute Center.  
14 Thus, it could not have possibly had fair notice that its voluntary dispute system,  
15 designed to be easily understandable to consumers, could constitute an unfair practice  
16 simply because of the dispute codes provided to consumers.

17 Simply put, the Bureau fails to show that any EIS practice is substantially  
18 injurious to consumers, let alone that EIS had fair notice that such practice was unfair.

19 **CONCLUSION**

20 For the foregoing reasons, the Bureau's claims are procedurally and  
21 substantively defective. The Court should dismiss this matter with prejudice.

22 Dated: April 1, 2025

JONES DAY

23  
24 By: /s/ Richard J. Grabowski

Richard J. Grabowski

25  
26 Attorneys for Defendant  
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